Notice of Allowability	Application No.	Applicant(s)	
	09/201,107	MAYAUD, CHRISTIAN	
	Examiner	Art Unit	
	Carolyn M. Bleck	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *19 August 2005*.

2. ☒ The allowed claim(s) is/are *71-73, 75 and 85 (now renumbered 1-5)*.

3. ☒ The drawings filed on *30 November 1998* are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 30 March 2005. Claims 71-73, 75, and 85 are pending. Claims 71 and 85 have been amended.

Terminal Disclaimer

2. The terminal disclaimer filed on 30 March 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 5,845,255 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Affidavit filed under 37 C.F.R. § 1.131

3. The affidavit filed on 30 March 2005 under 37 CFR 1.131 is sufficient to overcome the Schrier et al. (US 6,317,719) reference.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Schwartz on 8/25/05.

The application has been amended as follows:

Claim 85, line 24, delete "and" and line 26, add "and" after the phrase "completed prescription;".

Title

5. Please change the title to "A Prescription Management System Providing Drug Formulary Information."

Allowable Subject Matter

6. The following is an examiner's statement of reasons for allowance:

(A) Claims 71-73 and 75 (now renumbered 1-4) are directed towards a prescription creation software system providing a prescription creation screen display, permitting prescriber-operable data capture including: patient-identifying data; prescribed drug identification data; drug quantification data; information regarding prescribability of a drug pursuant to formulary guidelines, the information being formulary-qualified according to the patient condition; and a library of prescribable drug data accessible from the prescription creation screen to display multiple prescribable drugs; and drug formulary information identifying at least one of multiple drugs as a patient's drug formulary preferences to enable selection by the prescriber of a benefit plan

recommended drug; by which the patient's drug formulary preference may be presented to the prescriber prior to completion of the prescription.

The Examiner applied Schrier et al. (US 6,317,719) under 35 U.S.C. § 102(e) as teaching the features of claim 71 (now renumbered claim 1). Note Schrier's teachings of a prescription creation screen permitting prescriber operable data capture including patient id, prescribed drug, drug quantification, and patient condition (col. 13, lines 5-15, col. 6, lines 4-25, col. 8, lines 35-50, col. 9, lines 10-35), a library of prescribable drug data accessible from the prescription creation screen to display multiple drugs (col. 5, lines 30-67, col. 13, lines 60 - col. 14, line 45)., a prescription output screen to output the completed prescription including patient condition, identification, and quantification (col. 13, lines 10-16). Schrier also teaches information regarding prescribability of the drug according to patient condition (col. 8, lines 35-60, col. 9, lines 35-65, col. 11, lines 30-40, col. 13, line 60 – col. 14, line 30); drug formulary information identifying at least one of multiple drugs as the patient's drug formulary preference (col. 13, line 60 – col. 14, line 30).

The Applicant filed an affidavit under 37 C.F.R. § 1.131 on March 30, 2005 swearing behind the Schrier reference. This affidavit has been deemed effective in removing Schrier as prior art. The Examiner has failed to find any applicable prior art with a filing date prior to December 13, 1993, which is the earliest effective filing date of the Schrier reference. For at least these reasons, claims 71 and 73-75 (now renumbered 1-5) are deemed to be allowable over the prior art of record.

(B) Claim 85 (now renumbered claim 5) is directed towards a prescription creation software system providing a prescription creation screen display, permitting prescriber-operable data capture of information including patient-identifying data, prescribed drug identification data, drug quantification data, and patient condition data capture device for capturing patient condition data regarding the patient condition exhibited by the patient wherein the electronic prescription further comprises the patient condition data, a library of prescribable drug data accessible from the prescription creation screen to display multiple prescribable drugs wherein said prescribable drugs are associated with a patient condition, a prescription output screen device to output a completed prescription, drug formulary information identifying at least one of multiple drugs as a patient's drug formulary preferences for selection by the prescriber of a benefit plan recommended drug; by which the patient's drug formulary preference is presented to the prescriber prior to completion of the prescription; wherein the completed prescription includes the patient condition and identification and quantification data regarding a drug prescribed by the prescriber user for treatment of the patient condition, the patient condition and drug data being captured into the prescription.

The Examiner applied Brimm et al. (5,072,383) as teaching the features of claim 85. Note Brimm's teachings of a display screen (Fig. 5, col. 5 line 59 to col. 6 line 22) for a physician to enter an order, e.g., medication orders, wherein the order includes the patient's name, medication name, the dosage of the medication, and the patient's condition (such as for pain, see Fig. 6) (Fig. 5-6, col. 9 lines 1-42), a listing of medications for a physician to chose from by placing the cursor over the item, a terminal

to output the orders (i.e., a prescription), wherein the orders includes the patient's condition and drug information and treatment information (Fig. 5-6, col. 9 lines 1-42). Brimm did not expressly disclose a library of drugs. However, the Examiner respectfully submitted that because a user is able to select the drug from a list, the name of the drug and other information about the drug would need to be stored in a computer (i.e., see the file server of Brimm, Fig. 2). Further, the Examiner respectfully submitted that Fig. 6 displays the medication associated with the patient condition (see severe pain and restlessness) (See also, col. 9 line 8 to col. 10 line 62).

Brimm failed to disclose drug formulary information identifying at least one of multiple drugs as a patient's drug formulary preferences for selection by the prescriber of a benefit plan recommended drug; by which the patient's drug formulary preference is presented to the prescriber prior to completion of the prescription, in combination with the remaining features of claim 85 (now renumbered claim 5). For these reasons, claim 85 (now renumbered claim 5) is deemed to be allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-

6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 or (703) 872-9326 [Official communications]

(703) 872-9327 [After Final communications labeled "Box AF"]

(571) 273-6767 [Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

CB
August 25, 2005

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600